

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

DARREN ALVIE ROCK,

Defendant.

Case No. 23-CR-182-JFH

OPINION AND ORDER

Before the Court is a Motion to Determine Indian Country as a Matter of Law (“Motion”) filed by Plaintiff United States of America (the “Government”). Dkt. No. 53. The Government asks the Court to determine, as a matter of law, that 1111 E. 12th Street, Okmulgee, Oklahoma is within the boundaries of the Muscogee (Creek) Nation. For the reasons set forth below, the Motion is granted.

A “district court can find, as a matter of law, a geographic area or particular location is Indian Country, and then instruct the jury to determine factually whether the offense occurred there.” *United States v. Roberts*, 185 F.3d 1125, 1139-40 (10th Cir. 1999). The party seeking to invoke the jurisdiction of a federal court must demonstrate by a preponderance of the evidence that the case is within the Court's jurisdiction. *United States v. Bustillos*, 31 F.3d 931, 933 (10th Cir. 1994).

The Tenth Circuit was clear in *Roberts* that, “[a]s a general matter, the trial court decides the jurisdictional status of a particular property or area and then leaves to the jury the factual determination of whether the alleged crime occurred at the site.” 185 F.3d at 1139. “[A] trial court [] acts appropriately when it makes the jurisdictional ruling a particular tract of land or geographic

area is Indian Country, and then instructs the jury to determine whether the alleged offense occurred there.” *Id.*

Here the Government submits for the Court’s review a map of the Muscogee (Creek) Nation, showing that 1111 E. 12th Street, Okmulgee, Oklahoma, 74447 is within the Nation’s boundaries. Dkt. No. 53-1. The Court finds this sufficient to demonstrate by a preponderance of the evidence that the location of the charged events is within Indian country. A jury, however, will determine the factual question of whether anything of a criminal nature occurred at the 1111 E. 12th Street, Okmulgee, Oklahoma, 74447 address.

IT IS THEREFORE ORDERED that the Motion to Determine Indian Country as a Matter of Law filed at Dkt. No. 53 is GRANTED.

Dated this 30th day of April 2024.



JOHN F. HEIL, III
UNITED STATES DISTRICT JUDGE